

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:20-cr-00045-RLY-MPB
)	
ROBERT LEMAR NEELY,)	-01
)	
Defendant.)	

REPORT AND RECOMMENDATION

On December 21, 2020, the Court held an Initial Appearance on a Warrant for Violation of Supervised Release. On January 14, 2021, the Court held the Final Hearing on Revocation of Supervised Release. Defendant Neely appeared in person with his appointed counsel Jared Thomas. The government appeared by Todd Shellenbarger, Assistant United States Attorney. The United States Probation and Parole Office was represented by Officer Brian Deardurff.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Neely of his rights and provided him with a copy of the petition. Defendant Neely waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Neely admitted violations 1 and 2, with a partial admission to 5 and 6. ([Docket No. 5](#)). The Defendant and Officer Deardurff were called as witnesses.
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

	Violation Number	Nature of Noncompliance
	1	<p>"The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance."</p> <p>On September 4, 2020, Robert Neely submitted urinalyses that tested positive for Amphetamine and THC. The specimen was sent for further confirmation testing and returned positive for Methamphetamine and THC Metabolite.</p> <p>On September 21, 2020, Robert Neely submitted urinalyses that tested positive for Amphetamine and THC. The specimen was sent for further confirmation testing and returned positive for Amphetamine and THC Metabolite.</p> <p>On September 29, 2020, Robert Neely submitted urinalyses that tested positive for Amphetamine and THC.</p> <p>On October 5, 2020, Robert Neely submitted urinalyses that tested positive for Amphetamine and THC.</p> <p>On October 16, 2020, Robert Neely submitted urinalyses that tested positive for Amphetamine.</p> <p>On October 23, 2020, Robert Neely submitted urinalyses that tested positive for THC.</p>
	2	<p>"The defendant shall complete an immediate assessment or participate in a program for substance abuse as approved by the probation officer upon release or relapse during their term of supervised release. That program may include testing and inpatient or outpatient treatment, counseling, or a support group. While a cognitive skills program may be used as an additional component of treatment, a cognitive skills program shall not be substituted for drug treatment or aftercare programs, including a 12 step program. "</p> <p>Robert Neely failed to appear for random urinalysis drug screening on November 18, 2020.</p>

5		<p>"The defendant shall complete an immediate assessment or participate in a program for substance abuse as approved by the probation officer upon release or relapse during their term of supervised release. That program may include testing and inpatient or outpatient treatment, counseling, or a support group. While a cognitive skills program may be used as an additional component of treatment, a cognitive skills program shall not be substituted for drug treatment or aftercare programs, including a 12 step program. "</p> <p>On October 1, 2020, Robert Neely failed to attend a substance abuse and mental health treatment assessment with New Visions.</p> <p>Robert Neely failed to remain engaged with substance abuse and mental health treatment at Southwestern Stepping Stones. Mr. Neely failed to appear on October 29, 2020 and November 2, 2020, therefore treatment services were terminated.</p> <p>Robert Neely was discharged from substance abuse and mental health treatment at Brentwood Springs on November 18, 2020. Mr. Neely was discharged for non-compliance for rule violations and violating confidentiality.</p>
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The Court declines to find a violation as to alleged violation numbers 3, 4 and 6.

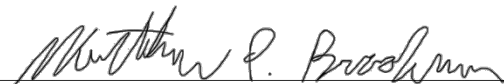
4. The parties stipulated that:

- (a) The highest grade of violation is a Grade B violation.
- (b) Defendant's criminal history category is V.
- (c) The advisory range of imprisonment applicable upon revocation of supervised release, therefore, is 18-24 months' imprisonment.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated conditions 1, 2 and 5 in the petition, and did not violate conditions 3, 4 and 6. That his supervised release should be revoked, and that he be sentenced to custody of the Attorney General or his designee for a period of thirteen (13) months with no further supervision to follow.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have fourteen days after being served a copy of this Report and Recommendation to serve and file written objections with the District Judge.

Dated: January 14, 2021



Matthew P. Brookman
United States Magistrate Judge
Southern District of Indiana

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